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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,758	09/01/2006	Vesa Simila	KOL.222.WUS	6655
76385 7590 04/09/2009 Hollingsworth & Funk, LLC 8009 34th Avenue South Suite 125 Minneapolis, MN 54425				
EXAMINER				
ORR, HENRY W				
ART UNIT		PAPER NUMBER		
2176				
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04/09/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/591,758

**Applicant(s)**

SIMILA ET AL.

**Examiner**

Henry Orr

**Art Unit**

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/27/2009 has been entered.

**DETAILED ACTION**

1. This action is responsive to applicant's amendment dated 3/27/2009.
2. Claims 1-16 are pending in the case.
3. Claims 1, 8, 15 and 16 are independent claims.

**Applicant's Response**

4. In Applicant's response dated 3/27/2009, applicant has amended the following:
  - a) Claims 1, 8, 15 and 16

Based on Applicant's amendments and remarks, the following objection previously set forth in Office Action dated 1/28/2009 is withdrawn:

- a) Objection to the specification

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. **Claim 15 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. See MPEP § 2106**

Claim 15 recites a "computer program product" encoding a "computer process" having instructions. Examiner submits that the recited "computer program product" is merely computer software that performs various functions. Thus, the recited "computer program product" is comprised merely of computer software and is not a process, a machine, a manufacture or a composition of matter.

Accordingly, the claim fails to recite statutory subject matter as defined in 35 U.S.C. § 101.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1-16 are rejected under 35 U.S.C. 102(b) as being DeStefano by U.S. Patent No. 6,075,531 of record.**

Claim 1:

DeStefano teaches **a method comprising: opening application windows of at least two different application programs onto a display;** (see col. 1 lines 58-65, col. 2 lines 43-49, Figure 11)

**determining a grip area on a predetermined location on the display** (see col. 15 lines 12-24)

**detecting activation of the grip area for managing application windows on the display on the basis of a cursor being at least in the vicinity of the grip area;** (see col. 6 line 65 - col. 7 line 21 – Examiner interprets the pointer (i.e., cursor) and grip span capabilities to anticipate the recited "grip area")

**detecting a change in the location of the activated grip area on the display, indicated by an input device;** (see abstract, col. 7 lines 38-45, Figure 3)

**and changing the size of selected application windows of the at least two different application programs in a predetermined manner on the basis of the change in the location of the grip area** (see abstract, col. 12 lines 30-46).

Claim 2:

DeStefano's Figure 11 illustrates **showing the grip area for managing application windows on the display.**

Claim 3:

DeStefano teaches **determining the grip area at the edges of an application window** (see col. 9 lines 26-30).

Claim 4:

DeStefano teaches **determining the grip area at a bar of an application window** (see abstract, col. 9 lines 14-30 – the grip span of the pointer can be determined at any part (e.g. bar, corner, edges) of an application window because the proximity range of the grip span is customizable).

Claim 5:

DeStefano teaches **detecting selection of the application windows to be changed from among the opened application windows; and changing the size of the application windows to be changed only** (see col. 8 lines 15-41, col. 9 lines 14-30, col. 9 lines 55-65, col. 14 lines 16-19 - grip span selection changes the size of the "affected" windows).

Claim 6:

DeStefano anticipates **scaling the contents of the application windows in proportions to the changes in the sizes of the application windows** (see col. 4 lines 24-43, col. 7 lines 6-10 – application window is defined to include content, therefore

when the window size changes, the content within the corresponding window changes.

Claim 7:

DeStefano teaches **wherein detecting a change in the location of the grip area comprises: detecting a direction of motion of the grip area from a first location of the grip area to a second location of the grip area as well as the distance between the first location and the second location, and changing the sizes of the application windows on the basis of the detected direction of motion and distance** (see abstract, col. 2 lines 43-55, col. 12 lines 30-46, Figure 15).

Claims 8-14:

Claims 8-14 are apparatus claims and are substantially encompassed in method claims 1-7 respectively; therefore the apparatus claims are rejected under the same rationale as method claims 1-7 above.

Claim 15:

Claim 15 includes a computer program product to implement the steps that are substantially encompassed in method claim 1; therefore the claim is rejected under the same rationale as method claim 1 above.

Claim 16:

Claim 16 is an apparatus claim and is substantially encompassed in method claim 1; therefore the apparatus claim is rejected under the same rationale as method claim 1 above.

### ***Response to Arguments***

Applicant's arguments filed 3/27/2009 have been fully considered but they are not persuasive.

#### **Claim 15 Rejection under U.S.C. § 101**

Applicant argues that claim 15 is directed to statutory subject matter because the claimed computer process instructions are encoded such that they are structurally and functionally interrelated to the claimed tangible product. See Response page 6

Examiner respectfully disagrees.

Examiner notes that claim 15 does not claim a "tangible" product. Instead, the claim recites a "computer program product". Examiner submits that claiming a "computer program product" does not necessitate that the product is tangible or requires hardware. In addition, the term "tangible" is not disclosed in the instant application.



Since the claimed product is not explicitly tied to a particular machine, the claim cannot be directed to statutory subject matter. Therefore, Examiner maintains 35 U.S.C. § 101 rejection to claim 15.

**Rejections under 35 U.S.C. § 102 (b)**

In regards to the independent claims, Applicant argues that DeStefano fails to teach or suggest the recited ***“determining a grip area on a predetermined location on the display”***. The cited portion of DeStefano at column fifteen merely teaches that a location may be predetermined for a "preview" mode in order to see which windows would be affected if a grip mode is subsequently selected. The preview location is not a predetermined grip area as claimed. Rather, in DeStefano the location of the pointer determines the origin of the proximity range, and the location of the pointer is spontaneously determined by a user. For example, the claimed grip area is a predetermined area on a display; whereas, DeStefano teaches that after the "preview" the user must still select a grip mode in order to perform a desired operation. DeStefano's predetermined "preview" mode location fails to correspond to the claimed determination of a grip area on a predetermined location on the display.

Examiner respectfully disagrees.

Examiner interprets the pointer and grip span capabilities as taught by DeStefano to anticipate the recited "grip area". DeStefano teaches the pointer and grip span capabilities to be performed at a predetermined location when a user depresses a key

and/or mouse button to enter a preview mode. Examiner submits that the predetermined location in addition to the pointer and grip span capabilities being performed at the predetermined location for the preview mode clearly anticipates the recited ***“determining a grip area on a predetermined location on the display”***.

Also in regards to the independent claims, Applicant argues that DeStefano fails to teach the recited *“detecting activation of the grip area on the basis of a cursor being at least in the vicinity of the grip area”* because a grip mode is selected after the affected windows are selected, thereby requiring additional button selection from the user.

Examiner respectfully disagrees.

Examiner interprets the pointer and grip span capabilities as taught by DeStefano to anticipate the recited “grip area”. In other words, anytime the pointer and grip span capabilities are performed; “detecting activation of the grip area” is also performed. DeStefano teaches a preview mode that requires the pointer and grip span capabilities to be performed. For example, DeStefano teaches *“In other embodiments, it may be desirable to utilize intermittent “preview” modes whereby a user could depress a key and/or a mouse button while the pointer is at a predetermined location to permit a user to briefly see which windows will be affected”* (see col. 15 lines 12-24). Therefore, the activation of the grip area can be detected without selecting a grip mode after the affected windows are selected.

Examiner further interprets the pointer to anticipate the recited cursor because detecting the activation of "grip area" as taught by DeStefano is based on the pointer being in the vicinity of the grip area (i.e., pointer and grip span capabilities). Thus, DeStefano does teach or suggest the recited *"detecting activation of the grip area on the basis of a cursor being at least in the vicinity of the grip area"*.

In regards to dependent claim 2, Applicant argues DeStefano fails to teach or suggest the recited *"showing of the grip area on the display"*.

Examiner respectfully disagrees.

Examiner interprets the pointer and grip span capabilities as taught by DeStefano to anticipate the recited "grip area". DeStefano teaches a preview mode that requires the pointer and grip span capabilities to be performed. For example, DeStefano teaches *"In other embodiments, it may be desirable to utilize intermittent "preview" modes whereby a user could depress a key and/or a mouse button while the pointer is at a predetermined location to **permit a user to briefly see which windows will be affected**"* (emphasis added) (see col. 15 lines 12-24). Therefore, a user can briefly see the pointer and grip span capabilities (i.e., "grip area"). Thus, DeStefano does teach or suggest the recited *"showing of the grip area on the display"*.

In respect to claims 3 and 4, Applicant argues that DeStefano fails to teach or suggest the claimed determining of the grip area at the edges (or at a bar) of an application window.

Examiner respectfully disagrees.

Examiner interprets the pointer and grip span capabilities as taught by DeStefano to anticipate the recited "grip area". The grip span has a customizable proximity range that can expand the "grip area" to cover the entire display which may include application windows with edges and/or a bar (see abstract, col. 9 lines 14-30). Therefore, DeStefano does teach or suggest the claimed determining of the grip area at the edges (or at a bar) of an application window.

In respect to claim 7, Applicant argues that DeStefano fails to teach the claimed detection of a change in the location of a grip area because DeStefano detects the location of a pointer and not necessarily a grip area.

Examiner respectfully disagrees.

As explained above, Examiner interprets the pointer and grip span capabilities as taught by DeStefano to anticipate the recited "grip area". Therefore, detection of a change in the location of a pointer and corresponding grip span capabilities anticipates

detection of a change in the location of a "grip area". Thus, DeStefano does teach or suggest the claimed detection of a change in the location of a grip area.

For at least the foregoing reasons, Examiner maintains Prior Art Rejections.

### ***Conclusion***

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry Orr whose telephone number is (571) 270 1308. The examiner can normally be reached on Monday thru Friday 8 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton can be reached on (571) 272-4137. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

4/6/2009

HO

/DOUG HUTTON/  
Supervisory Patent Examiner, Art Unit 2176